

## REMARKS

This Response is submitted in reply to the Office Action dated April 15, 2008 in conjunction with the enclosed Request for Continued Examination. Claims 1-18, 20-23, 25-27, 31-44, 48, 50-54 and 56-59 have been amended. Claims 60-65 have been added. Claims 19, 24, 28-30 and 55 remain canceled. No new matter has been added by such amendments. The Commissioner is hereby authorized to charge deposit account 02-1818 for all fees which are due and owing in connection with this Response.

As noted above, Applicant has filed a Request for Continued Examination with this Response. Accordingly, Applicant requests that the Examiner provide an upcoming Office Action which will “. . . identify any claims which he or she judges, as presently recited, to be allowable and/or . . . suggest any way in which he or she considers that rejected claims may be amended to make them allowable” in accordance with §707.07(d) of the MPEP.

### 1. Request for Withdrawal of Finality

Applicant filed a Request for Continued Examination and Response to Office Action on January 14, 2008. The Examiner responded by issuing a first action Final Rejection. Applicant notes that the Office Action does not specifically reject independent claim 38. Indeed, although the Summary of the Office Action indicates that claim 38 stands rejected, the Detailed Action omits any explanation of how any cited art anticipates (or renders obvious) this claim. Applicant respectfully submits that this omission amounts to a failure to articulate a prima facie case of unpatentability and the burden to rebut this “rejection” has not yet shifted to the Applicant. Consequently, this Final Rejection is premature and improper. Accordingly, Applicant requests the removal of the finality of this Office Action. Moreover, a next Office action rejecting claim 38 cannot properly be made final since only then would the Applicant be obligated to rebut the rejection, presuming that such an Office Action sets forth a prima facie case. (See MPEP § 706.07(a)).

## **2. Information Disclosure Statement**

The Office Action indicated that the Information Disclosure Statement filed on January 22, 2008 listed references which lacked citing relevant pages or were illegible. Applicant has resubmitted the twelve non-patent literature references which the Examiner did not consider from the January 22, 2008 Information Disclosure Statement in the enclosed Supplemental Information Disclosure Statement. The copies of such references possessed by Applicant do not have page numbers. Applicant has added page numbers to such references and also provided legible copies of such references for the Examiner's convenience.

Additionally, Applicant has submitted an English language abstract for DE 3242890 and an English language translation of claims 1 to 5 for RU 17678. Applicant does not have copies of English language translations for DE 3242890 or RU 17678. Such submissions satisfy Applicant's requirement for a concise explanation of relevance.

Applicant submits that the enclosed Supplemental Information Disclosure Statement complies with the provisions of 37 CFR § 1.97, 37 CFR § 1.98 and MPEP § 609.

## **3. Drawings**

Although the Examiner mentions that the drawings filed January 14, 2008 were accepted, the Summary of the Office Action omits any indication of such acceptance. Applicant requests that the Examiner confirm that such drawings were accepted in the next Office Action.

## **4. Claim Objections**

The Office Action objected to claim 31. Applicant has amended claim 31 for clarification and submits that such amendment overcomes such objection.

## 5. Claim Rejections – 35 U.S.C. § 102

The Office Action rejected:

- (a) claims 1-13, 16-18, and 20-21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,718,431 to Orenstein (“Orenstein ‘431”);
- (b) claims 1-13, 15-18, 20-23, 25-27, 38-51, 53-54, 56-59 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Nos. 5,788,574 to Orenstein (“Orenstein ‘574”) or 5,570,885 to Orenstein (“Orenstein ‘885”);
- (c) claims 1-4, 6-10, 12-13, 15-18, 20-23, 25-27, 31-33, 37-42, 44-48, 50-51, 53-54, and 56-59 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,586,766 to Forte (“Forte”); and
- (d) claims 1-13, 15-18, 20-23, 25-27, 31-32, 34-35, 37-51, 53-54, and 56-59 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,851,010 to Feinberg (“Feinberg”).

The Office Action stated that:

In response to Applicants argument(s) regarding patentability, the examiner disagrees that present claimed invention is limited to *only* a single player placing multiple streak round wagers. Although the claims have been amended to claim a single player, as stated above, present claim language fails to preclude a single player placing multiple non-concurrent side wagers or multiple players placing a side wager that are concurrent with one another as rendering claimed invention taught by cited art at least due to failing to require *only* a [single] player and failing to differentiate first and second (or third) side wagers as being simultaneous.

Applicant refers to previously presented claims 1-18, 20-23, 25-27, 31-54 and 56-59 in the Response to Office Action dated January 14, 2007 as “Prior Claims.” Applicant respectfully disagrees with, and traverses, such rejections at least for the following reasons.

For reference, Applicant notes that Prior Claim 1 recited "receiving a first streak wager on a first streak round from a single player and a second streak wager on a second streak round from said single player . . ." However, none of the cited references disclose receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from said player.

The Office Action relied upon the cited references to suggest that a single player could place such first and second streak wagers for different plays (i.e., at different times). Under this interpretation, the cited references would not disclose "receiving an outcome of a current main round," "determining whether the received outcome is identical to the selected type of outcome for the main round for the first streak round," and "determining whether the received outcome is identical to the selected type of outcome for the main round for the second streak round," as recited in Prior Claim 1.

Even if a single player could place such first and second streak wagers for different plays (i.e., at different times), as suggested by the Examiner, the cited references do not disclose receiving an outcome of a current main round and determining whether the received outcome is identical to a selected type of outcome for the first and second streak rounds. For example, in the Blackjack game of Orenstein '431, a player places a first wager on a first play of the game and places a second wager on a second play of the game. In this example, the first play of the game results in the player obtaining a first outcome (e.g., "23") and the dealer obtaining a first outcome (e.g., "17"). The player loses the first wager. The second play of the game results in the player obtaining a second outcome (e.g., "19") and the dealer obtaining a second outcome (e.g., "17"). The player's streak of wins begins and the second wager remains active for another play of the game. In this example, the first wager and the second wager are based on separate, different outcomes. On the other hand, Prior Claim 1 is directed to, once an outcome is received for a current main round, comparing such outcome to the selected type of outcome for both the first and second streak rounds. If a single player places first and second streak wagers at different times or during different plays, as suggested by the Examiner, the selected type of outcome for the first and second streak rounds would be compared to different outcomes (e.g., one

outcome for each different play), not the same outcome received for the current main round.

For this reason alone, the rejections are improper, and the Prior Claims are patentably distinguished from the cited references.

The Office Action relied upon the cited references to find a disclosure of multiple players placing such first and second streak wagers concurrently. Applicant disagrees that multiple players placing separate wagers, either concurrently or non-concurrently, constitutes receiving a first streak wager from a player and receiving a second streak wager from said player. For this reason alone, the rejections are improper, and the Prior Claims are patentably distinguished from the cited references.

The Office Action rejected independent Prior Claims 1 and 18 under 35 U.S.C. 102(b) as anticipated by Orenstein '431. Further, the Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. 102(b) as anticipated by Orenstein '574 or '885. The Office Action stated that Orenstein '431 and '574 or '885 disclose a system including "receiving first and second (and third) streak wager on first and second (and third) streak round . . . ," and "where first, second and third wager/streak are representative of first, second and third players wagers which can be simultaneous during main rounds of play since players may place proposition [such as streak wager] bets prior to start of any game or first, second and third wager/streak are representative of a wager from a single player at differing subsequent [not simultaneous] rounds of play." However, in Orenstein '431, '574 and '885, the player bets only one side bet at a time for a single primary game. For multiple players, each player bets only one side bet at a time for the single primary game. Accordingly, there are no multiple streak rounds with opportunities for a single player to provide first and second wagers.

The Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. §102(b) as anticipated by Forte. The Office Action stated that Forte discloses "receiving first and second (and third) streak wager[s] on first and second (and third) streak round[s]." However, Forte does not disclose receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from the same player. Forte is directed to a card game system having player

counters which count or tally events for betting. For example, Forte discloses status displays which are connected to display player jackpot count values that correspond to the number of consecutive natural hands of blackjack dealt to the players. Accordingly, there are no multiple streak rounds with opportunities for a single player to provide first and second wagers.

The Office Action rejected independent Prior Claims 1, 18, 22, 38, 39 and 54 under 35 U.S.C. 102(b) as anticipated by Feinburg. Specifically, the Office Action stated that Feinburg discloses "receiving first and second (and third) streak wager[s] on first and second (and third) streak round[s]." However, Feinburg does not disclose receiving a first streak wager on a first streak round from a player and a second streak wager on a second streak round from the same player. Feinburg is directed to a method of playing a game in which the player selects one of first and second outcomes for each gaming decision as a side bet. In Feinburg, the player wagers on only one outcome. For example, Feinburg discloses in blackjack, the first and second cards dealt to the player can be used as an outcome for gaming decisions. The player selects red or black for each gaming decision as a side bet. (Feinburg, Column 5, Lines 29-35). Accordingly, there are no multiple streak rounds with opportunities for a single player to make first and second wagers.

At least for the reasons provided above, Applicant submits that all of the Prior Claims are patentably distinguished from the cited references.

## **6. Amendments**

Despite the forgoing traversal, Applicant has amended claims 1-18, 20-23, 25-27, 31-40, 54 and 56-59 to clarify the claim language for purposes of advancing the prosecution of this application.

Amended independent claim 1 recites the following elements, among other elements, "displaying the streak game" and for a single player: "...simultaneously tracking whether the first and second streak conditions are satisfied for said single player."

Amended independent claim 18 recites the following elements, among other elements, "... (a) providing a first player with an opportunity to play the base game; (b)

receiving at least one game wager from the first player for a play of the base game; (c) receiving a plurality of side wagers from the first player for a play of the streak game, the plurality of side wagers being received independent of any side wager received from any other player of the game; ... (f) simultaneously tracking a satisfaction of the first and second streak conditions for the first player..."

Amended independent claim 22 recites the following elements, among other elements, "... (a) cause the at least one game wager to be received from the single player, (b) cause a plurality of the side wagers to be received from the single player, the plurality of side wagers being received independent of any side wager received from any other player in the game, (c) start the game after the plurality of side wagers are received from the single player, ... (e) simultaneously track a satisfaction of the first and second streak conditions for the single player..."

Amended independent claim 38 recites the following elements, among other elements, "... (a) display a game image associated with a game operable upon at least one wager, (b) for a single player of the game: (i) simultaneously track any occurrences of: (x) any first streak outcomes achieved by the single player during a plurality of consecutive plays of the game by said single player, and (y) any second streak outcomes achieved by the single player during a plurality of consecutive plays of the game by said single player..."

Amended independent claim 39 recites the following elements, among other elements, "... (a) receive a first streak wager on a first streak round from a single player of the streak game; (b) receive a second streak wager on a second streak round from said single player, the second streak wager being received independent of any streak wager received from any other player of the streak game... (d) start the streak game after the first and second streak wagers are received from the single player..."

Amended independent claim 54 recites the following elements, among other elements, "... (a) receive a first streak wager associated with a first streak round from a single player; (b) display a representation of the first streak wager at a first position on a first path; (c) receive a second streak wager associated with a second streak round from said single player; (d) display a representation of the second streak wager at a first position on a second path... (h) display the representation of the first streak wager at

another position on the first path in response to the generated outcome satisfying the first streak condition associated with the first streak round; (i) display the representation of the second streak wager at another position on the second path in response to the generated outcome satisfying the second streak condition associated with the second streak round; and (j) repeat (e) to (i) until an ending condition occurs.”

Support for such amendments can be found in at least Figs. 1, 7, 8A to 8G and 9 along with their related descriptions in paragraphs [0037], [0040] to [0045], [0054], [0055], and [0059] to [0062] of Applicant’s Specification.

Applicant submits that neither Orenstein ‘431, ‘574 or ‘885, Forte, nor Feinburg disclose the foregoing claim elements, and that amended independent claims 1, 18, 22, 38, 39 and 54 (and all of the dependent claims) are in condition for allowance.

#### **7. Claim Rejections – 35 U.S.C. § 103**

The Office Action rejected Prior Claims 14, 34-35 and 52 under 35 U.S.C. § 103(a) as being obvious over Feinberg. In addition, the Office Action rejected Prior Claims 33 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Feinberg. Applicant respectfully submits that amended claims 14, 33, 34-35, 36 and 52 are patentably distinguished over Feinberg for reasons similar to those submitted with respect to amended independent claims 1, 22, and 39 and are in condition for allowance.

For all of the reasons provided above, Applicant submits that all of the claims are in condition for allowance.



An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY

A handwritten signature in black ink, appearing to be "Renato L. Smith", written over a horizontal line.

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